

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOE E. HUDSON,

Case No. 3:23-cv-00080-ART-CSD

Petitioner,

ORDER

v.

STATE OF NEVADA,

Respondents.

Petitioner Joe E. Hudson proceeding *pro se* has filed a motion for extension of time to file a motion to vacate or correct his sentence. (ECF No. 1-1.) In his motion, Hudson explains that his “A.E.D.P.A. deadline has not yet been reached but rapidly approaches” and he “needs . . . additional time to research his recent discovery” before being able to file his federal habeas petition. (*Id.* at 1–2.)

Because Hudson has not submitted a habeas petition, he has not properly commenced this federal habeas matter. Hudson must file a federal habeas petition on the Court’s 28 U.S.C. § 2254 habeas corpus form and include either the \$5.00 filing fee or a fully completed application to proceed *in forma pauperis* (“IFP”). Local Rule LSR 1-2. Moreover, absent a properly commenced federal habeas case, a motion to excuse a potentially untimely petition is premature.¹

It is therefore ordered that Petitioner’s motion for extension of time [ECF No. 1-1] is denied as premature.

It is further ordered that the Clerk of Court send Petitioner (1) one blank copy of the IFP application form for inmates along with instructions, (2) one blank

¹Notably, a petitioner in a federal habeas action can file a protective petition, assuming it complies with the necessary pleading requirements, and then move for leave to file an amended petition after further discovery or research is conducted. The Court, however, makes no finding or representation that claims in an amended petition will relate back to the protective petition if the amended petition itself is found to be untimely filed.

1 copy of the form petition for a writ of habeas corpus under 28 U.S.C. § 2254 along
2 with instructions, and (3) two copies of this order.

3 It is further ordered that Petitioner must file a completed IFP application
4 on the Court's form on or before May 1, 2023, and must include: (1) a financial
5 certificate signed by Petitioner and an authorized prison official; (2) Petitioner's
6 financial acknowledgement and declaration; and (3) a copy of his inmate account
7 statement for the six-month period prior to filing. Alternatively, Petitioner must
8 pay the \$5 filing fee on or before May 1, 2023. If Petitioner decides to pay the
9 filing fee from his inmate account, he must arrange to have a copy of this order
10 attached to the check for the filing fee.

11 It is further ordered that Petitioner must file a federal habeas corpus
12 petition on the Court's form on or before May 1, 2023,² by placing the case
13 number, 3:23-cv-00080-ART-CSD, in the designated space.

14 It is further ordered that Petitioner's failure to comply with this Order will
15 result in the dismissal of this action without prejudice and without further
16 advance notice.

17 DATED THIS 24th day of March 2023.

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21 ANNE R. TRAUM
22 UNITED STATES DISTRICT JUDGE
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27 ²Petitioner remains responsible at all times for calculating the applicable statute
28 of limitations. By ordering Petitioner to file a petition by May 1, 2023, the Court
makes no finding or representation that the petition will be considered timely.